

IN THE UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF MASSACHUSETTS

DOCKET NO. 04-10862-GAO

JOSEPH E. MCCAIN,  
PLAINTIFF,

U.S. DISTRICT COURT  
DISTRICT OF MASS.

VS.

THE CITY OF NEWBURYPORT,  
THOMAS H. HOWARD, INDIVIDUALLY AND AS  
CITY MARSHALL FOR THE CITY OF NEWBURYPORT,  
BRIAN BRUNAULT AND NEXTEL COMMUNICATIONS OF  
THE MID ATLANTIC, INC.,  
DEFENDANTS.

**STIPULATION OF DISMISSAL WITH PREJUDICE**

NOW COMES the Plaintiff in the above matter and stipulates that this action may be dismissed with prejudice, without costs and waiving all rights of appeal as to Defendants, City of Newburyport, Thomas H. Howard, Individually and as City Marshall for the City of Newburyport and Brian Brunault.

Respectfully submitted,  
Joseph E. McCain,  
By his Attorneys:

Joseph T. Doyle, Jr. Esq. BBO # 133440  
Matthew W. Perkins, Esq. BBO # 564868  
Lecomte, Emanuelson and Doyle  
Batterymarch Park II  
One Pine Hill Drive, Suite 101  
Quincy, MA 02169  
(617) 328-1900  
(617) 328-2030 Facsimile

Dated: August 25, 2004

**CERTIFICATE OF SERVICE**

I, Joseph T. Doyle, Jr., of the firm of Lecomte, Emanuelson and Doyle, Attorney for Plaintiff, hereby certify that this 25<sup>th</sup> day of August 2004 I served a copy of the within Stipulation of Dismissal with Prejudice by first class mail, postage prepaid to:

Leonard H. Kesten, Esquire  
Brody, Hardoon, Perkins & Kesten, LLP  
One Exeter Plaza  
Boston, MA 02116

Joseph T. Doyle, Jr.